U.S. Department of Homeland Security
U.S. Citizenship and Immigration Service
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090

U.S. Citizenship and Immigration Services

(b)(6)

DATE: NOV 0 5 2013 OFFICE: TEXAS SERVICE CENTER FILE:

IN RE: Petitioner:
Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the AAO inappropriately applied the law in reaching its decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen in accordance with the instructions on Form I-290B, Notice of Appeal or Motion, with a fee of $630. The specific requirements for filing such a motion can be found at 8 C.F.R. § 103.5. **Do not file any motion directly with the AAO.** Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires any motion to be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Ron Rosenberg
Acting Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, denied the employment-based immigrant visa petition. The AAO dismissed the petitioner's appeal from that decision. The matter is now before the AAO on a motion to reconsider. The AAO will dismiss the motion.

The petitioner filed the Form I-140 petition on May 2, 2012, seeking classification under section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as an elementary special education teacher for At the time she filed the petition, the petitioner taught at Maryland. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director denied the petition on October 27, 2012, having found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States. The AAO dismissed the petitioner's appeal from that decision on March 18, 2013.

The petitioner had filed the petition and appeal through attorney There is no indication that Mr. participated in the preparation or filing of the motion to reconsider, and the motion does not include a newly executed Form G-28, Notice of Entry of Appearance as Attorney or Representative, to indicate that Mr. still represents the petitioner. The AAO will therefore consider the petitioner to be self-represented on motion.

A motion to reconsider must state the reasons for reconsideration and be supported by any pertinent precedent decisions to establish that the decision was based on an incorrect application of law or U.S. Citizenship and Immigration Services (USCIS) policy. A motion to reconsider a decision on an application or petition must, when filed, also establish that the decision was incorrect based on the evidence of record at the time of the initial decision. 8 C.F.R. § 103.5(a)(3). A motion that does not meet applicable requirements shall be dismissed. 8 C.F.R. § 103.5(a)(4).

On motion, the petitioner does not claim that the decision was based on an incorrect application of law or USCIS policy, or that the decision was incorrect based on the evidence of record at the time of the initial decision. She states:

> I wholeheartedly accept your decision Sir. But with humble hopes as well, I am filing a motion to reconsider for personal reasons . . . :
>
> 1. For my [younger] daughter . . . to finish her College Degree through an Honors program at
> 2. For my [elder] daughter . . . to at least finish her projects with work[;]
> 3. That I will be given enough time to settle all my loans and debts here in the US and the Philippines before the US decide [*sic*] us (whole family) to go home.
>
> . . . [P]lease let me continue to work until my children finish their studies. You may not issue a green card which is fine but please just let my children finish their schooling and push through their goals for the next 3 years. . . .

> Sir, please let me work for 3 to 4 more years so I will be prepared to go home. This I promise to do wholeheartedly when I am totally ready (i.e., debt-free and children finish school).

The purpose of a motion to reconsider is to contest the correctness of the original decision based on the previously established factual record. A motion to reconsider based on a legal argument that could have been raised earlier in the proceedings will be denied. *See Matter of Medrano*, 20 I&N Dec. 216, 219-20 (BIA 1990, 1991). The "reasons for reconsideration" that may be raised in a motion to reconsider should flow from new law or a *de novo* legal determination reached by the AAO in its decision that could not have been addressed by the party. *Matter of O-S-G-*, 24 I&N Dec. 56, 58 (BIA 2006). Further, a motion to reconsider is not a process by which a party may submit, in essence, the same brief presented on appeal and seek reconsideration by generally alleging error in the prior decision. *Id.* at 58. Instead, the moving party must specify the factual and legal issues raised on appeal that were decided in error or overlooked in the initial decision or must show how a change in law materially affects the prior decision. *Id.* at 60.

In this instance, the petitioner does not contest the decision or allege any error of fact or law. Instead, the petitioner seeks favorable treatment based on family considerations. There is no provision of law or regulation to allow reconsideration on this basis. The national interest waiver is not a humanitarian provision, and neither is the motion to reconsider. The petitioner's stated desire to remain in the United States is not grounds for approval of the petition, or a basis to reconsider the prior decision.

The petitioner requests that, if she and her family cannot remain permanently in the United States, they should at least be able to stay long enough for her adult daughters (born in 1991 and 1992, respectively) to complete their studies. This is not the benefit that the petitioner sought when she filed the employment-based immigrant petition.

There exists no mechanism whereby USCIS can convert the petitioner's denied immigrant petition into an unspecified status for her daughters. The denial of the present petition does not prohibit the petitioner and her daughters from seeking immigrant or nonimmigrant status through other means.

The petitioner's submission does not meet the requirements of a motion to reconsider. The regulation at 8 C.F.R. § 103.5(a)(4) therefore requires the dismissal of the motion.

ORDER: The motion is dismissed.